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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,617	07/07/2003	Timothy Robert Richards	DN2003112	7480

27280 7590 04/06/2005

THE GOODYEAR TIRE & RUBBER COMPANY  
INTELLECTUAL PROPERTY DEPARTMENT 823  
1144 EAST MARKET STREET  
AKRON, OH 44316-0001

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,617

Applicant(s)

RICHARDS ET AL.

Examiner

Steven D. Maki

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 120204.070703
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

Art Unit: 1733

1) Figure 4A, 5A, 4B and 5B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2) The disclosure is objected to because of the following informalities:

In paragraph 33 on page 4 of the specification, "Figures 2B through 5B" should be --Figures 2B, 3B, 4B and 5B--.

Appropriate correction is required.

3) Claim 2 is objected to because of the following informalities:

In claim 2 line 2, "opens" should be --opening--.

Appropriate correction is required.

4) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5) Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, there is no antecedent basis for "the pitch sizes PS, PM<sub>1</sub>, PM<sub>2</sub> and PL". Should claim 7 depend on claim 4 instead of claim 1?

Art Unit: 1733

6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Stumpf

8) **Claims 1-5 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stumpf (AT 403358).**

The claimed tire reads on Stumpf's tire having a tread as shown in figure 2a. Stumpf's tire has reduced noise when rolling on a paved road. The claimed circumferential grooves read on the illustrated two circumferential grooves. The claimed lateral grooves read on the illustrated transverse grooves (lateral grooves) in the shoulder extending from the tread end toward the circumferential groove. As can be seen from figure 2a, some lateral grooves open to the circumferential grooves whereas the remainder of the lateral grooves in the shoulder are blind lateral grooves (blocked lateral grooves). The smallest pitch comprises one block and one lateral groove opening to the circumferential groove. The largest pitch comprises one block, one lateral groove opening to the circumferential groove and four blind ("blocked") lateral grooves. Alternatively, the smallest pitch may be considered as comprising one block

Art Unit: 1733

and two lateral grooves opening to the circumferential groove and the largest pitch may be considered as comprising one block having four blind lateral grooves. With respect to this alternative interpretation, it is noted that Stumpf shows two "different" smallest pitches in that the two lateral grooves opening to the circumferential groove are arranged so as to define different shape blocks. The claimed casing is inherent in Stumpf's tire having reduced noise when rolling on paved road

**9) Claims 1-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf in view of Hoffmeister (US 5769990) and Wesolowski (US 5753057).**

Stumpf, discussed above, is considered to anticipate claim 1. In any event: It would have been obvious to one of ordinary skill in the art to provide Stumpf's tire comprising a tread having reduced noise with a "casing" as claimed since Hoffmeister and Wesolowski suggest that a tread having reduced noise is desirable for a pneumatic tire wherein (a) Hoffmeister defines pitches in a manner similar to that of Stumpf and (b) Wesolowski defines a pneumatic tire as comprising a laminated mechanical device of generally toroidal shape (usually an open torus) having beads, a carcass ply and a tread.

As to claims 2, 3 and 5, note the illustrated arrangement of open lateral grooves and blind lateral grooves in the shoulder of the tread shown in figure 2a.

As to claims 4, 6 and 7, it would have been obvious to one of ordinary skill in the art to use four different pitches 7-8-9-10 and a total number of pitches of 60-120 in Stumpf's tire tread since Wesolowski teaches using four different pitches 7-8-9-10 and a

Art Unit: 1733

total number of pitches of 67-103 so that the tire has flatter harmonics which translates to reduced tire noise.

As to claims 9 and 10, the limitations therein read on the illustrated blockage causing the blind lateral grooves. The lateral groove is blocked adjacent to the circumferential groove since the blind end is adjacent the circumferential groove. The blind end of the lateral groove is at a "maximum distance" from the circumferential groove; it being emphasized that "maximum distance" is a relative phrase in which the criteria for determining "maximum" is not specified.

**10) Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stumpf in view of Hoffmeister and Wesolowski as applied above and further in view of German 061 (DE 10145061).**

As to claim 8, it would have been obvious to one of ordinary skill in the art to provide Stumpf's tread with the claimed alternating groups since (1) Stumpf's tread has alternating groups of open lateral grooves (i.e. two open lateral grooves) and blind lateral grooves (e.g. three or four blind lateral grooves) and (2) German 061 suggests a pitch P1 comprising two blocks defined by three open lateral grooves.

Japan 610

**11) Claims 1-3 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 610 (JP 4-201610).**

The claimed tire is anticipated by Japan 610's pneumatic tire having the tread as shown in figure 1. The blocked lateral groove reads on the lateral groove connected to the circumferential groove via sipe 9. The open lateral groove reads on the lateral

Art Unit: 1733

groove, which (a) has a deep and shallow portion and (b) is open directly to the circumferential groove (no intervening sipe 9).

**12) Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 610 in view of Wesolowski.**

As to claims 4-7, it would have been obvious to one of ordinary skill in the art to use four different pitches 7-8-9-10 and a total number of pitches of 60-120 in Japan 910's tire tread since Wesolowski teaches using four different pitches 7-8-9-10 and a total number of pitches of 67-103 so that the tire has flatter harmonics which translates to reduced tire noise.

Remarks

13) The remaining references are of interest.

14) No claim is allowed.

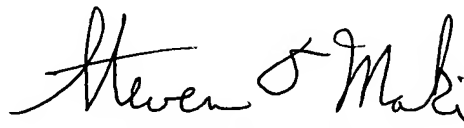
15) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
April 3, 2005

  
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PRIMARY EXAMINER  
~~GROUP 1300~~  
Av 1733  
4-3-05